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# EXPLORING THE 'NOTIONAL PROPERTY DEVELOPER' AS A POLICY CONSTRUCT

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## Abstract

This paper explores how far policy-makers understand the structure of the development industry, the perceived characteristics of developers and the extent to which such actors can be considered policy-responsive. If these matters are poorly understood, the effectiveness of planning policy may be undermined, especially where the private sector is responsible for undertaking most development. The paper is based upon empirical research on the Scottish Executive's perceptions of, and policy stances towards developers between 1999 and 2007. It finds that Executive appeared to have only limited understanding of what drives the development process or motivates individual developers and seemed unfamiliar with important differences within the industry, sectorally and geographically. Instead, 'the notional property developer' was incorrectly conceived as a malleable and potentially compliant partner with shared objectives to the State. The paper calls for a more thorough understanding of the development industry as a pre-requisite to effective urban policy-making.

## 1. INTRODUCTION

Property developers are considered by many to play a crucial role in the production of the built environment. The public image of the developer, now shaped as much by daytime television as 'Rachmanesque' accounts in the popular press, combines brashness with secrecy, confidence with greed. Such images would be mere ingredients of legend and novel were it not for intense political interest in the products of the development industry and in the ability of politicians to shape, regulate and stimulate development through planning and other forms of intervention.

The importance of developers as a policy-relevant field is well illustrated by the longstanding use in the British planning system of the term 'development plan' and the more recent introduction of the term 'development management' in place of the better known phrase 'development control'. In practice, both 'development plan' and 'development management' are clear misnomers, which reflect the mistaken view planners often hold of their own role and importance in the development process.

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<sup>1</sup> Dr Steve Tiesdell, formerly Senior Lecturer in Public Policy in the Department of Urban Studies, University of Glasgow, died on 30 June 2011, after a lengthy illness. He was fully involved in the research on which this paper is based, in preparing the original draft and in reflecting on comments from the referees. The final version of the paper was completed by his fellow authors, after Steve was taken seriously ill in July 2010

According to Faludi (2000), many planners inherently like to see themselves at the centre of the action, controlling or reining in other actors. Yet, where the private sector is responsible for the vast majority of development output, as in the UK, planners neither ‘plan’ nor ‘manage’ development, but rather intervene in its production. The British ‘development plan’ is thus essentially a regulatory plan, since a true development plan would allocate and programme resources to achieve specific developments intended by, and often under the direct control of, the plan-maker. Despite its more recent popularity, ‘development management’ is no more than a euphemism for the well-established British system of development control, and again falsely suggests a more central role for planners than is actually the case. In the end, most development is planned and managed primarily by developers and associated actors, rather than by public-sector planners.

It could be said that this terminological confusion is harmless, especially if it helps raise the morale of a much battered planning profession. In this paper, we take a different position. We argue that such terminological confusion reflects substantive practical confusion about how planners and developers can most effectively interact. Indeed, as planners increasingly engage in a process of bargaining with developers over the distribution of development gains, they require an ever more sophisticated understanding of development to help them realise how they might best influence developer activity. This makes it essential for policy-makers to understand the motives, behaviour and *modus operandi* of developers.

The specific focus of this paper is on the Scottish Executive’s perceptions of, and policy stances towards developers between 1999 and 2007. The Scottish experience well illustrates the policy challenge faced in many advanced economies of seeking to manage urban change while greatly reliant for implementation on private-sector agents, about whom information may be limited. As a result, a ‘notional property developer’ may be constructed by policy-makers to compensate for their lack of hard information on how real developers behave in practice. In the next section, we draw together what previous research from the UK, North America and Australia tells us about developer behaviour and the extent to which it is open to policy influence. The latter, we argue, tends to be implicit rather than explicit in the literature since specific relations between developers and policy-makers are not well studied. We thus specify two research questions to uncover what concepts Scottish policy-makers held about developers and what their implications were. We then set out our research method before presenting our findings in two sections, the first dealing with the Scottish Executive’s policy perceptions about developers and the second with its policy stances towards them. We conclude the paper by summarising our findings and reflecting on the research questions.

## **2. CONCEPTUALISING THE PROPERTY DEVELOPER**

The substantive academic account of what typifies the property developer has still to be written. There are certainly good anecdotal accounts, written mainly from inside the industry, which reveal much about the behaviour and thinking of particular developers at particular times (see, for example Marriot, 1967; Ross Goobey, 1992; Scott, 1996). Alongside these, textbooks provide comprehensive accounts of the entire development process, within which they accord varying attention to the developer’s role (see, for example, Havard, 2008; Millington, 2000; Wilkinson and Reed, 2008). Occasionally, there emerges a more reflective account of developer motives within a rich understanding of process, of which Fainstein’s (1994) classic exploration of property, politics and planning in London and New York is an excellent example. Nevertheless, such insights often tell us more about relations between developers and policy-makers than about the activities of developers themselves.

To conceptualise what is meant by a developer, we need to rely on shorter contributions, especially those made in recent years by researchers such as Michael Ball, Robert Beauregard, Eddo Coiacetto, Simon Guy, Patsy Healey and John Henneberry. This section draws on these sources in an attempt to explore what drives developer behaviour and to probe the extent to which it is open to policy influence. It starts by reflecting on the broad theoretical traditions that have been deployed to explain developer behaviour. It then examines the structure of the development industry, both functionally and geographically, before considering the perceived characteristics of developers as central actors in the development process. It concludes by exploring the extent to which developers can be considered potentially policy-responsive.

## 2.1 Alternative approaches to developer analysis

Accounts of developer behaviour tend to fall within the four main traditions in property research, identified by Ball (1998), namely, mainstream economics, power/behavioural approaches, structure-agency institutionalism and structure of provision theories. These broadly reflect earlier approaches to understanding the development process (see reviews by Gore and Nicholson, 1991; Healey, 1991) which provide richly varied accounts of the importance of the developer in the production of the built environment. Most textbook explanations are implicitly grounded in mainstream economics and regard development appraisal as a fundamental operational tool by which developers attempt to mediate between supply and demand. This approach has been taken further in econometric modelling of developer decision-making, especially in the American literature. In recent years, emphasis has been placed on applying financial option theory to real estate development (see, for example, Bulan et al., 2009; Grenadier, 1995). Bulan et al.'s (2009) study of 1214 condominium developments in Vancouver is particularly interesting, since it provides detailed evidence suggesting that developers delay construction at times of greater price uncertainty and higher market risk. This strong econometric tradition, however, has been much criticised for placing developers under the control of macroeconomic forces that leave little scope for individuality in behaviour. Coiacetto (2001, 45-46), for example, argues that:

*"Probably because of their underlying assumptions, the presentation and discussion of such models is sometimes characterised by a certain naiveté and isolation from real-life human machinations and manoeuvring. It would even seem that the simulations are not always clearly distinguished from reality. . . Such models, then, deal with developer behaviour without actually examining how and why they behave in such a way."*

Turning to power/behavioural approaches, Ball (1998) regards the earlier focus of Marriot (1967) and Scott (1996) as good examples of ad-hoc institutionalism, where the success of individual property developers is attributed to their own personal characteristics and good fortune rather than to any market drivers. He sees links from these approaches to what he calls the conflict institutionalism of contributions such as Ambrose and Colenutt (1975), where the interests of the developers are placed in diametrical opposition to those of local communities, however defined. Here, planners are regarded as the (often unsuccessful) mediators of such conflict or even facilitators of developer interests. Conflict institutionalism, according to Ball, can be contrasted with behavioural institutionalism, most evident in research on the behavioural characteristics of landowners and financiers.

Ball then mounts a strong critique of what he calls the ASH (Agency-Structure-Healey) model of development before re-affirming confidence in his own Structures of Building Provision theory. Healey's work and especially her 1992 institutional model of the development process attempted to

link actor strategies and interests to the broader economic, social and political context and perhaps had more in common with Ball's own approach than he realised at the time. While Healey's interests moved on elsewhere, her insights into the ways in which developer behaviour both frames and is framed by the broader structural context can be said to have paved the way for more recent analysis of development cultures, pioneered by Simon Guy and John Henneberry. It is in the context of this more recent work that we now consider the policy importance of understanding structural disaggregations within the development industry.

## **2.2 The functional and geographical structure of the development industry**

In the UK at least, there has been a longstanding distinction between developers who build new homes and those who concentrate on commercial, leisure and business property. Speculative housebuilders have been studied more than commercial developers, partly because of the policy importance of housing and partly because of the influential role of the Joseph Rowntree Foundation and other research funders. As a result, the reluctance of housebuilders to innovate (Barlow, 1999), their reliance on a narrow product range (Hooper and Nicol, 1999) and their resilience to economic hardship (Gibb *et al*, 1995) are all issues that have been well exposed to academic research. The more recent and fascinating attention given by Wellings (2006) to the rise of the national housebuilder during the twentieth century emphasises the interaction of finance capital with personal ambition and judgement to explain the success and failure of individual developers over this period. It is arguable that the structure of the speculative housebuilding industry, at least in the UK, has evolved significantly in response to the changing policy environment (especially in relation to land supply shortages), with concepts such as 'market capacity' reflecting the current nature of state-market relations (Adams *et al*, 2009).

Although Havard (2008) points out that the recent trend towards city centre living has helped reduce barriers between commercial and residential developers, he still thinks the distinction important, while splitting the commercial sector into developer/traders and developer/investors. This echoes the fourfold categorisation of Adams (1994) who suggests that developers move along a path to maturity, starting out as mere dealers, gradually building a reputation as developer/dealers with the aim eventually to become developer/investors whose characteristics are not dissimilar from the pension funds and insurance companies whose direct involvement in the development process marks them out as investor/developers. This links to Keogh's (1994) institutional explanation of the property market as a richly connected network between the user, investment and development sectors, with the developer seen to play a central role at the nexus of these relationships (Henneberry and Rowley, 2002). Unlike speculative housebuilders, who generally build for owner-occupiers (a role that combines user and investor), commercial developer/traders aim to attract users as tenant and then sell out as landlord to an investor.

From a North American perspective, Beauregard (2005: 2433) notices that "the disaggregation of property markets into sub-markets or sectors – also called property types - is so common as to be unquestioned and unexamined." His explanation mixes the structural characteristics of a complex development market, in which "developers and investors in one sector are likely to respond to market signals at variance with their counterparts in other sectors" (Beauregard, 2005: 2433) with the agency need of individual developers to manage risk and contain their information requirements. Beauregard argues that the strong commitment of both developers and investors to place, as well as sectors, limits their capacity to switch across either geographical areas or property sectors. Similar themes are evident in Coiacetto's work in an Australian context, where he draws an essentially place-based distinction

between two developer outlooks. He finds that “In the study area, one outlook is narrower, more local, but less exclusive and possibly more egalitarian. The other is more assertive, more worldly, more imaginative, more self-assured, less restrained and somewhat elitist” (Coiacetto, 2000: 369).

There are notable links here to the influential contribution of Guy *et al.* (2002) who in their account of the regeneration of central Manchester make the important distinction between locally-based independent developers and nationally-based institutional developers. The distinction is essentially about ways of thinking and operating which determine what is and is not considered possible in particular local markets. Guy *et al.* (2002) argue that, unlike institutional investors, independents will contemplate smaller lot sizes, multiple tenancies and mixed uses. They “recognise the links between such social complexity and the urban vitality which is central to regeneration” (p. 1191), strive to add value through distinctive design and are able to offset development risks through collaborative projects and initiatives.

The sectoral and geographical disaggregation of the development industry has important policy implications for it demands the necessary knowledge, skill and attitudes to move beyond the generalised conceptualisations found in so many policy documents such as ‘private sector’ and ‘developer’ to enable a practical distinction to be drawn between place-based and non place-based entrepreneurs. This difference might certainly colour the approach of public authorities to entering development partnerships but it has broader significance at a time when the distinctiveness of the locale is seen to provide a competitive urban advantage. In short, the more planners see themselves involved in ‘place bargaining’ rather than development control, the more it matters precisely who is sitting on the opposite side of the table.

### **2.3 The perceived characteristics of developers as impresarios in the development process**

Developers are often portrayed as impresarios, orchestrating the development performance by bringing capital, labour and rights in land together to create the right product in the right place at the right time (Goobey, 1992; Marriot, 1967). Fainstein (1994: 218) takes up this analogy arguing that “the development industry resembles the entertainment business more than heavy manufacturing in having a profound cultural influence, in the singularity of each item produced, and in the process by which the elements of a project are combined.” Many developers would no doubt take pleasure in Fainstein’s comparison of their business to that of film-production, especially with its connotations of glamour and excitement, along with the promise of undue riches for the best known celebrities.

In reality, however, the developer’s expertise is often seen to lie in knowing the local market (product), spotting opportunities (location) and resolving constraints to make things happen when required (timing). So successful development is not solely about the old adage of ‘location, location and location’, but instead relies on broader knowledge of ‘product, location and timing’. What personal characteristics distinguish the successful developer from the unsuccessful one? According to Guy (2002: 252) “Knowledge of local market conditions, meshed with an almost ‘mythical’ instinct, is mobilised in entrepreneurial initiatives.” In his textbook, Millington (2000) produces a longer list of ten qualities needed to make a successful property developer, of which three (thorough knowledge and understanding of markets, construction and finance) relate primarily to the development process. The other seven are essentially aspects of personality and consist of optimism, imagination and practical vision, judgement, decision-making ability, courage and a ‘thick skin.’ Interestingly, having presented his original list at a conference, Millington recounts how he was approached by two prominent developers who suggested that the only relevant quality missing was ‘a sense of humour.’

Such anecdotes seem to emphasise the importance of individuality to successful developers, encapsulated in the ad-hoc institutionalism criticised by Ball (1998), and appear to suggest that the industry is exemplified by such atomised behaviour that anyone with the right frame of mind can be successful. Certainly, as Coiacetto (2009) points out, development companies are often small organisations since one person with a phone and good contacts can potentially be just as successful in orchestrating the development performance as a large corporation. This suggests that to survive and grow over the long-term, developers mainly need the necessary anticipation and common-sense to avoid over-development in a downturn (Ball, 2002; Wellings, 2006).

This might seem simple enough, except for what is commonly known as the ‘herd instinct’ among developers, with the potential to create waves of over-development at the height of an upturn, as each individual developer follows the rest of the crowd. According to Henneberry and Rowley (2002), an important cause of this is over-reliance on trend extrapolation in inflating profit expectations. The tendency among all developers “increasingly to use habit-persistence based appraisals as market change becomes more extreme” (Henneberry and Rowley 2002: 110) destabilises market conditions and can produce extreme market volatility. According to Barras (1984 and 1994), improved market information may ironically sharpen, rather than dampen, speculative responses, especially it fails to help developers anticipate their competitors’ reaction to market signals.

What this collective form of development ‘misappraisal’ suggests is that individual developer characteristics might matter less than the collective psyche and that what Guy *et al.* (2002) term ‘development cultures’ could be an important policy focus. Looking at the decision-making processes of London-based finance capital, they contend that their “operational culture is a unique embodiment of economic rationality and social action” (Guy *et al.* (2002: 1187) since investors’ own familiarity and proximity to ‘all things London’ appears just as important as formal analysis in accounting for their disproportionate property investment in London and the south-east. Even when London-based finance capital was prepared to venture further north to the regional capital of Manchester, its interest, according to Guy *et al.* (2002), was largely confined to the well-established central office core, in contrast to independent local developers, whose collective culture encouraged innovative schemes in fringe locations. To explain the herd instinct among developers or to account for the increasing importance of ‘fashion-based’ development, policy-makers may thus need to look well beyond individual developers characteristics and instead consider the institutional characteristics of the ‘developer breed’, applying Hamilton’s (1932: 84) definition of an institution as “a way of thought or action of some prevalence, which is embedded in the habits of a group or the customs of a people.”

## **2.4 Developer behaviour and the scope for policy influence**

The above discussion has four main implications for understanding both developer behaviour and the extent to which it is open to policy influence. First, it is important, even if somewhat obvious, to emphasise that developers are not necessarily policy-driven – market and site constraints as well the prevalent development culture, may be equally if not more influential in their decision-making. Secondly, developers may well see policy as a constraint, rather than an enabling influence. Third, since the development industry is both varied and specialised, there may be no single development culture, but rather a constantly changing spectrum of cultures as market, policy and site constraints play out differently across time and space. We thus echo Coiacetto’s call (2000: 370) for planners “to appreciate that different developers think differently and that this varies from place-to-place.” Indeed developer behaviour may well be far more varied than planner behaviour.

Finally, we suggest that it is important to look beyond those ‘heroic’ accounts of the developer, criticised by Ball (1998) as ad-hoc institutionalism. At an individual level, it is certainly possible to portray developers as the entrepreneurial movers and shakers of urban change, whose identification and pursuit of their own interests remain unrelenting. Yet, despite their characterisation as instinctive risk-takers, Ball (1998) emphasises the moral hazards caused by developers’ normal practice of taking risks primarily with other people’s money, rather than their own. We must therefore take a ‘relational’ not individual view of developer characteristics, in which we interpret concepts such as ‘market instinct’ within the prevalent set of power relations between occupier, developer and investor and indeed more broadly, between the state and the market.

Two main research questions emerge from the above discussion as a focus for exploring ‘the notional property developer’ as a policy construct. These provide the context for the remainder of the paper and can be specified as follows:

1. How far do policy-makers really understand the motives and behaviour of property developers or the structure and organisation of the development industry?
2. Does a naïve view of developers potentially hamper effective policy intervention in the production of the built environment?

### **3. RESEARCH METHOD**

The research presented here is derived from a broader project, which sought to identify the implicit ‘property market policy’ of the Scottish Executive from May 1999 to May 2007<sup>2</sup>. The research thus recognised that property is rarely the focus of explicit government policy, at least not in any holistic sense. Conversely, in planning, housing and transport, for example, strategic policy changes are often articulated in the UK through green and white papers, with their content subsequently translated as necessary into legislation, or reflected in spending decisions. In 1999, such aspects of ‘domestic’ policy were fully devolved to the newly formed Scottish Executive and Scottish Parliament. Although the devolution settlement reserved defence, foreign affairs, economic and fiscal policy and certain other matters to the UK Government, the concentration of our research on an important domestic policy makes the Scottish experience relevant to the broader debate on relations between governments and the private sector.

The Scottish Executive was chosen as the focus for the research for two further reasons. First, it remained in settled political control (Labour/Liberal Democrat coalition) for the whole of the study period. Secondly, during its first eight years, the newly devolved Scottish Executive undertook a series of policy reviews relevant to property, including those covering planning, housing, transport and regeneration.

The empirical research was undertaken in five stages. The first stage involved identifying all strategies and policies published by the Executive and relevant subsidiary bodies between May 1999 and May 2007 with potential relevance for the property sector. Some 64 documents were identified. These fell into the five topic groups, shown in Table 1.

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<sup>2</sup> In August 2007, the Scottish Executive was renamed the Scottish Government. Since our study period preceded that decision, this paper consistently uses the term ‘Scottish Executive’.



Table 1: Numbers of Scottish Executive Documents Examined by Topic and Year										
Topic	Year of Publication									
	1999	2000	2001	2002	2003	2004	2005	2006	2007	Total
Economic Development & Regeneration	1	2	-	3	4	2	1	3	1	17
Housing	-	-	-	-	-	2	4	-	1	7
Planning	1	1	2	2	4	4	10	6	6	36
Sustainable Development	-	-	-	-	-	-	1	-	-	1
Transport	-	1	-	-	-	-	1	1	-	3
<b>Total</b>	<b>2</b>	<b>4</b>	<b>2</b>	<b>5</b>	<b>8</b>	<b>8</b>	<b>17</b>	<b>10</b>	<b>8</b>	<b>64</b>

The second stage involved a thorough quantitative analysis of the content of the 64 selected documents. Bryman (2004: 181) describes content analysis as “an approach to the analysis of documents and texts (which may be printed and visual) that seeks to quantify content in terms of predetermined categories and in a systematic and replicable manner”. Although time-consuming, this analysis proved a relatively straightforward task, and was undertaken in four steps:

1. A set of 51 keywords was generated and arranged into eight groups<sup>3</sup> (see Table 2).
2. All 64 documents were searched electronically for these keywords, using the search function on Adobe Acrobat.
3. Applying consistent rules, duplicate or irrelevant references were eliminated.
4. Each keyword occurrence was assigned to one of four categories - simple **description** of events, organisations, existing law etc; market **perceptions** or understandings; possible future **alternatives policies**; and **actual policies**. Subsequent analysis focused on non-descriptive categories, in which a total of 562 keyword references were found<sup>4</sup>.

To discover the Executive’s broad approach towards each keyword groups listed in Table 2, the third stage involved a more qualitative analysis of the context within which keywords appeared. Essentially, through a process of amalgamation, the extensive number of references found to developers, for example, was reduced to a much smaller count of 21 perceived policy themes and 8 policy stances. This work was matched by the identification of the overall balance of implicit property policy within

<sup>3</sup> The main reference source used to identify relevant key words was *The Glossary of Property Terms* (Estates Gazette, 1989). An inductive approach was taken to selecting those property terms considered most likely to be relevant to the research. These were arranged into the eight groups as a means to communicate the findings more effectively. Academic colleagues also working in property research were asked to comment on our initial findings and suggest other keywords that were missing from the first search. As a result, we subsequently checked several new keywords, including ‘capital value’, ‘debt capital’, ‘equity capital’, ‘market price’, ‘market worth’, and ‘rates of return’, but found that any references made to these terms were sporadic

<sup>4</sup> These were intended to provide mutually exclusive categories to enable the research to achieve its policy focus. A deductive approach was then taken to placing each keyword occurrence with one of the four groups.

Scotland between 1999 and 2007. For example, was policy predicated primarily on a ‘market failure’ view of the world and over-reliant on market regulation or stimulus? Preliminary research findings were thus drafted.

<b>Table 2: Keyword Search Terms by Group</b>			
<b>Group 1: Developers</b> Developer(s) Developer contribution Property developer(s) Property development Real estate Real estate developer(s) Real estate development Joint venture	<b>Group 2: Funders</b> Development finance Development funder(s) Development funding Property funder(s)	<b>Group 3: Investors</b> Buy to let Investment yield(s) Investor(s) Property finance Property investment Yield(s)	<b>Group 4: Landlords/Tenants</b> Landlord(s) Lease(s) Rent(s) Tenancy or Tenancies Tenant(s) Tenure(s)
<b>Group 5: Landowners</b> Compulsory purchase Land assembly Feu Land owner(s) Land ownership Land registration Land register/registry Property management Sasines	<b>Group 6: Markets</b> Development risk(s) Housing market(s) Investment risk(s) Land market(s) Property risk(s) Real estate market(s)	<b>Group 7: Taxation</b> Business rates Development tax Land tax Property rates Property tax Rating	<b>Group 8: Value</b> Development value(s) Exchange value(s) Land value(s) Real estate value(s) Use value(s) Valuation(s)

In the fourth stage, the preliminary research findings were presented to three senior civil servants, responsible for planning, property and regeneration at the Scottish Executive, who were interviewed individually and collectively to correct any factual inaccuracies in the preliminary findings and explore reasons for the policy stances taken between 1999 and 2007. None of the interviewees was surprised by our preliminary findings, with each offering some helpful explanation to confirm and contextualise what we had discovered.

As the final stage of the empirical work, two focus groups of experienced property professionals were held, to which the preliminary findings were again presented and reaction invited. The focus groups were attended by some 22 property professionals, most of whom were at a senior or director level in property, planning or economic development consultancies, development companies or organisations representing the property profession or industry in Scotland. While both focus groups yielded valuable comment and some limited additional information, they too confirmed rather than fundamentally challenged the emerging research conclusions.

As Table 3 shows, the research revealed the prominence of developers as a policy focus, accounting for just over half of the total keywords recorded. With this in mind, this paper now concentrates on how the ‘notional property developer’ emerged as an important policy construct for the Scottish Executive. We thus next explore the Executive’s policy perceptions of the developer before considering its consequent policy stances.

<b>Table 3: Actual Keyword Count for Non-Descriptive Material</b>				
	<b>Market Perceptions</b>	<b>Alternative Policies</b>	<b>Actual Policies</b>	<b>Total</b>
Developers	80	3	205	288
Landlords/Tenants	46	4	53	103
Markets	57	1	33	91
Landowners	18	0	22	40
Value	12	1	4	17
Investors	10	1	2	13
Taxation	1	1	4	6
Funders	2	0	2	4
<b>Total</b>	<b>226</b>	<b>11</b>	<b>325</b>	<b>562</b>

#### 4. POLICY PERCEPTIONS ABOUT THE DEVELOPER<sup>5</sup>

What did the Scottish Executive really think of developers, and of the extent to which their strategies and actions could be influenced? No single document offered an explicit answer to this. This meant that the task of discovering the Executive's implicit perceptions towards developers was challenging and potentially contentious since it involved bringing together disparate material and providing some connecting interpretation to what was found. While we concentrated on those policy perceptions where the documentary evidence was strongest and most consistent, we were careful not to presume or necessarily seek consistency by unconsciously treating the Executive as a single undifferentiated actor whose policies were always well joined-up. This was why we subjected our preliminary findings to external review.

As indicated above, the 80 keyword references to the Executive's perceptions or understandings of developers were first sorted into 21 perceived policy themes. Each theme could be traced back to at least one specific reference in the 64 documents studied. These themes fell into four broad categories according to whether they implied a market shaping, regulation, stimulus or capacity-building perception of how best to relate to developers (see Tiesdell and Allmendinger, 2005, for further explanation). Table 4 shows how these categories provided a framework for analysis that allowed the 21 perceived policy themes to be grouped, as appropriate.

The four broad categories reflect alternative approaches by which policy might seek to change developer behaviour, namely:

- Market shaping: through influencing the broad decision-making context of developers
- Market regulation: through restricting developers' freedom of choice or manoeuvre
- Market stimulus: through impacting upon the financial calculations of developers
- Capacity building: through enhancing the capacity of developers to contribute to policy delivery or the capacity of policy-makers to negotiate successfully with developers<sup>6</sup>.

<sup>5</sup> Unless explicitly stated, the material in sections 4 and 5 does not distinguish between residential and commercial developers primarily because the Scottish Executive did not formally make that distinction, even though it can be argued that its policies were targeted more towards the residential than commercial sector.

<sup>6</sup> Our interest in this fourth category is with **skill development** for effective negotiation which is why this falls within the category of capacity building. As Table 5 subsequently shows, we place policies to extract greater community benefits from developers through planning agreements within the category of market regulation.

**Table 4: Summary of Scottish Executive Perceptions of the Developer**

<b>Category of Relations with Developers</b>	<b>Means of operation</b>	<b>Number of themes identified in documents studied</b>	<b>Main groups of themes</b>
Market shaping	Influencing the broad decision-making context of developers	6	<ul style="list-style-type: none"> <li>• General confidence in capacity of planning system to influence outlook of developers</li> <li>• Responsiveness of developers to specific planning policies, for example on affordable housing, better quality design, &amp; accessibility</li> </ul>
Market regulation	Restricting developers' freedom of choice or manoeuvre	3	<ul style="list-style-type: none"> <li>• Developers responsive to specific regulations on planning gain, renewable energy and transport assessment</li> </ul>
Market stimulus	Impacting upon the financial calculations of developers	5	<ul style="list-style-type: none"> <li>• Development subsidies can change developer behaviour</li> <li>• Higher permitted development densities make development more viable</li> <li>• Uncertain remediation costs and unknown final user demand deter developers from vacant urban land</li> <li>• Too much vacant urban land in any one area may deter developer interest</li> <li>• More needs to be done to make developers fully aware of regeneration opportunities</li> </ul>
Capacity building	Enhancing the capacity of developers to contribute to policy delivery or the capacity of policy-makers to negotiate successfully with developers	7	<ul style="list-style-type: none"> <li>• Better two-way communication needed between developers and the Executive</li> <li>• Developers need to be encouraged to 'raise their game' in quality terms, while planners need to become better negotiators with developers</li> </ul>

Overall, the analysis revealed that the Scottish Executive saw developers as essentially allies of the State whose objectives could be more closely brought into line by careful deployment of appropriate policy instruments. This view, which permeated many of the official documents studied, is well represented in the statement that “Effective planning involves partnership working, community involvement and dialogue and negotiation with developers to enable a high quality of development on the ground” (Scottish Executive, 2002, paragraph 5).

We now look in detail at the four categories by which our analysis of the Executive’s perceptions of developers was organised. What becomes evident is primarily a managerial view of the development industry, which concentrates on how developers can best contribute to public policy goals and plays down the potential for conflict between developers and the State.

### *Market shaping themes*

Market shaping policy instruments seek to influence the broad decision-making context of developers by reframing the context within which market decisions and transactions take place. At a national level, one important example of market shaping is a country’s particular system of property law<sup>7</sup>. Another, which accounted for most of the market shaping themes in our research, is a country’s system of national planning policy or guidance.

In Scotland, six market-shaping perceptions of direct relevance to developers could be distinguished. These fell into two groups of three. The first group reflected the Executive’s general confidence in the capacity of the planning system to influence the outlook of developers, whether positively or negatively. Development plans were considered capable of steering developers toward broad areas of search where development was favoured. There were repeated comments that certainty and clarity in the planning system (a major aim of the planning reform process) would give developers confidence. Conversely, outdated development plans were seen as a prime cause of developer uncertainty.

The second group of market shaping perceptions was much more precise and concerned the responsiveness of developers to policy intent. Two perceptions focused on the impact of planning policy on developer strategies. These suggested that to be effective, planning requirements both for affordable housing and better quality design, needed to be made clear early, so that they could be reflected in land prices. The final market shaping perception was the Executive’s belief that developers could be encouraged to think innovatively about accessibility by policy targets to promote modal shift in transport.

### *Market regulation themes*

Market regulation affects the decisions of developers by restricting the set of choices available - either by compelling an activity, prohibiting it or prohibiting aspects of it. Development control is a prime example of this. Strangely, there was hardly any comment in the 64 documents studied on how

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<sup>7</sup> Our research period coincided with the abolition of feudal tenure in Scotland and associated land reform that were enacted under the Land Reform (Scotland) Act 2003. However, these reforms were excluded from our research partly because most of the public debate around land reform took place under the auspices of the old Scottish Office prior to devolution in 1999. More crucially, however, the abolition of feudal tenure was seen by the Scottish Executive as a reform of civil law, rather than necessary as a property sector policy and indeed was preceded by a series of reports published from 1998 onwards by the Scottish Law Commission.

successful the Scottish Executive perceived development control to be in changing developer behaviour. In fact, the three examples of market-regulation perceptions were much more specific. The first suggested that a flexible approach to planning gain was inequitable, since larger developers had greater negotiating strength. The second identified the Renewables Energy Obligation as an exemplar of successful regulation. The third suggested that while developers may regard a comprehensive transport assessment as excessive, a more simple approach may not provide local authorities with enough information. Overall, there was little sense that extensive regulation of developers' activities was other than a well-accepted role for the State.

#### *Market stimulus themes*

We found five broad themes about how the Executive perceived its policies might impact financially on developers, through helping them to increase revenues, reduce costs or contain risks. First and most directly, it was apparent that the Executive believed that development subsidies could change developer behaviour. Secondly, it felt that developers would welcome higher development densities since these would help cover high urban land costs. Thirdly, it considered that uncertain remediation costs and unknown final user demand deterred developers from vacant urban land. Fourthly, it was suggested that too much vacant urban land in any one area may create the fear of excessive subsequent competition from other new developments. Finally, the Executive seemed to believe that while regeneration activity showed developers to be opportunistic and risk-taking, more needed to be done to make them fully aware of regeneration opportunities. Overall, then, the Executive appeared to have some inkling of the potential of its various policy stances to render development financially more or less attractive, but these perceptions cannot be said to have amounted to a particularly sophisticated insight into what makes (or does not make) development viable.

#### *Capacity building themes*

The research identified seven themes which reflected the Scottish Executive's perception of the capacity either of developers to contribute to policy delivery or of policy-makers to negotiate successfully with developers<sup>8</sup>. The themes could be divided into two groups. The first group of three primarily concerned the need for better two-way communication between developers and the Executive. These covered the recognition that the Executive needed to know more about the property development sector at the city region level, while acknowledging that those working in the sector may have found it difficult to interface effectively with the Executive, leading to the conclusion that developers do not necessarily appreciate the constraints of public policy. None of these problems was seen as particularly insurmountable.

The second group of four addressed delivery issues more directly. Design competitions were seen as able to inspire developers and raise their expectations. Confidence in the potential of developers with the right attitudes, knowledge, confidence and skills to produce better designed housing was matched by the frustration that where developers lacked vision or were not challenged by planners, poorly

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<sup>8</sup> The need for Scottish planners to improve their negotiating skills with developers was picked up by another study undertaken at about the same time, in relation to the provision of affordable housing through planning agreements. This argued that "planning staff are much less convinced that they have the detailed understanding of development economics and the commercial mindset needed to appraise deals and make prompt decisions. This is perhaps not surprising. Only two out of five authority staff reported that there has been training for housing, planning and other officers involved in the development and delivery of affordable housing policies" (Newhaven Research, 2008, p. 49).

designed places were built. This highlighted the perceived importance of capacity building within the public sector, reflected in the final theme that developers may have better negotiating skills than planners.

## **5. POLICY STANCES TOWARDS THE DEVELOPER**

According to Kingdon (2003), public policy-making, at its most basic, involves setting agendas, specifying alternatives, making authoritative choices and implementing those decisions. Concentrating on the first two of these, he argues that agendas are set and alternatives specified, when ‘the three streams of problems, policies and politics’ meet and coincide. As this suggests, policy change requires a compelling problem to be linked to a plausible solution that is also considered politically feasible. This may well involve a reflective conversation between problem and solution, in which each influences the other (Schön, 1991).

Policy perceptions, such as those identified above, help establish policy images or constructs, such of that of the ‘notional property developer’. Such constructs inform problem definition since as Kingdon (2003, p. 115) suggests: “Getting people to see new problems or to see old problems in one way rather than another, is a major conceptual and political accomplishment.” If policy problems are misconceived, policy solutions may be hard to find. Nevertheless, policy stances reflect far more than policy images or constructs. They emerge as the policy-makers develop their understanding of policy fields and policy challenges in a way that connects their own view of how the world works to their cultural constructs of those actors likely to be most instrumental in policy implementation, and to their appreciation of what policy solutions are likely to be technically feasible and ideologically acceptable.

In this section, we attempt to articulate the actual policy stance taken by the Executive towards property developers between 1999 and 2007. We did not expect to read the 64 policy documents and find a readily available set of Scottish Executive policies towards developers. Yet, this should not be taken to imply the absence of particular policy stances, even if not expressly articulated. Nor did we necessarily presume immediate linkage between policy perceptions and policy stances, since as Kingdon (2003) argues, what achieves political prominence reflects a mixture of crises, events, election results, prevailing values and ideas as well as specialised knowledge and policy thinking.

In this context, qualitative content analysis has the task of reading between the lines, of putting together and cross-checking passages from different documents and trying to decipher what the Executive was seeking to achieve. This must inevitably be a contested task, for in reading texts and assembling passages, there is much scope for argument about interpretation, if not about facts. So the approach taken here has been to indicate the scale of evidence we found in support of each perceived policy stance, by listing the number of separate supporting references in the various documents studied.

Table 5, sets out eight policy stances towards developers, which our analysis suggested were pursued during our research period. Alongside each policy stance, we indicate the number of supporting references found, the broad policy aim and particular type of policy instrument deployed.

**Table 5: Perceived Scottish Executive Policy Stances towards Developers**

Broad Policy Aim	Policy Stance	Specific References	Type of Policy Instrument
<b>To influence the overall quantity of market supply and/or demand</b> (grounded in neo-classical economics)	1 Developers should participate in the development plan process (and in agreeing the means by which housing land allocations are monitored)	3	Shaping
	2 Developers should make a greater contribution towards increasing the supply of affordable homes	8	Regulation
	3 Developers should pay directly for new infrastructure capacity to overcome inherited constraints, primarily: <ul style="list-style-type: none"> <li>• Accessibility improvements, including to major roads or junctions, public transport, town centre parking</li> <li>• New water/sewerage capacity</li> </ul>	11 4	
<b>To overcome market failure</b> (grounded in welfare economics)	4 Developers should make a greater contribution towards the social costs of development, especially in the provision of public or semi-public goods such as: <ul style="list-style-type: none"> <li>• Community facilities or community trust funds in areas affected by mineral extraction</li> <li>• Open space provision</li> <li>• Town centre funding</li> <li>• Schools</li> </ul>	1 5 1 1	Stimulus
	5 Developers should pay due regard to the long-term costs and benefits of development and not concentrate wholly on the short term <ul style="list-style-type: none"> <li>• Avoiding waste, recycling demolition materials</li> <li>• Future ICT requirements</li> <li>• Flood risk (e.g. consider whether occupiers will be able to obtain insurance)</li> <li>• High environmental standards &amp; management, both before and after opencast coal extraction</li> <li>• Long term maintenance of open space</li> </ul>	1 2 4 1 5	
	6 Developers should be encouraged, through policy initiatives & development subsidies, to build in the most deprived areas	1	
<b>To transform market cultures and practices</b> (grounded in the political economy of institutionalism)	7 To foster trust, developers should communicate and consult more with local communities	13	Capacity-building
	8 Developers should seek to produce better designed and higher quality development	12	



If a single theme pervades all eight policy stances, it is that of ‘developer responsibility’. As one publication midway through the period contended, “Some developers may be able to evade their reasonable responsibilities, others may be asked to make too large a contribution” (Scottish Executive, 2003: 263). What is meant here is not the private responsibilities of developers towards their shareholders or other financial backers, but rather some broader concept of their perceived public responsibility towards the community at large. Developers were thus expected to participate in the development plan process, engage more fully with local communities, produce higher quality design and crucially contribute financially to ensure that their activities were for societal, rather than merely private, benefit. Indeed, private-sector development was seen as a lucrative source of funding for forms of community investment, which in previous decades might have been met by the public purse. As the final column of Table 5 shows, we suggest that these policy stances were to be achieved primarily through market regulation, with market shaping, stimulus and capacity building each less important.

The first column of Table 5 further links the various policy stances to theoretical conceptions of state market relations in development (see Tiesdell and Allmendinger, 2005). Three broad policy aims can be identified. The first is grounded in a neo-classical perspective, in which the most important question for policy-makers becomes how far policy directly affects overall supply and demand. The second is grounded in welfare economics approach, in which the most important question for policy-makers becomes how far policy is able to overcome market failure. The third is grounded in the more radical ‘political economy of institutionalism’, in which the most important question for policy-makers becomes how far policy can transform market cultures and practices.

To summarise, the Scottish Executive appeared to have only limited understanding of what drives the development process or motivates individual developers and seemed unfamiliar with important differences within the industry, sectorally and geographically. Instead the ‘the notional property developer’ was conceived primarily as a potential partner, whose occasional inappropriate behaviour could be corrected and whose resources could be directed toward wider community benefit. While occasional developers might match this picture, most have many other characteristics, of which the Executive appeared unaware. In the final section of the paper, we account for this and to ask whether it really matters.

## **6. CONCLUSIONS**

Scotland, like the rest of the UK, relies heavily on the private development sector to create the built environment. Yet, the Scottish Executive documents reveal only scant awareness of both the structure and organisation of the development industry and the varied characteristics of individual developers. Indeed, the popular concept of the developer as a risk-taking entrepreneur battling against bureaucracy (even if those risks are usually taken with other people’s money) was replaced in the Scottish Executive documents by one of the developer as a malleable and potentially compliant partner with shared objectives to the State. Against this background, we conclude by addressing the research questions posed at the start of the paper.

Our first research question concerned the extent to which policy-makers really understand the motives and behaviour of property developers or indeed the structure and organisation of the development industry. We answer this by highlighting what appears to be a significant gap between the ‘notional property developer’ as policy construct and what other sources tell us about the development industry in practice. While some property developers may indeed see themselves as partners of the State in the

delivery of better quality places, many more consider their relationship with planners to be characterised more by conflict than consensus.

The reasons for the mismatch between policy conceptions and reality are not necessarily straightforward. It may well be that policy-makers do not have the benefit of well-developed sources of intelligence to keep them abreast of the development industry. Certainly, while planners have long been able to draw on reliable social and economic statistics for the production of development plans, consistent property market information is much more recent in its availability, while the activities of the development industry still remain shrouded in mystery. It may also be that policy-makers rarely meet developers outside a formal work setting and that there are few effective networks to aid mutual understanding. It was also suggested to us that the dominant politicians in Scotland during our period had few personal connections with property development and little individual experience of the business sector

Our second research question asked whether a naïve view of developers (which the Scottish Executive appeared to hold and which is probably shared by other public policy-makers), potentially hampers effective policy intervention in the production of the built environment. Here, we return to our view that terminological confusion matters, and that failure to understand the true nature of the development industry undermines is likely to undermine policy effectiveness. In Schön's (1991) terms, it inhibits reflective conversations between policy problems and policy solutions. Indeed, as a practical example, to know whether the actual property developer across the table intends to retain and lease a proposed development over the long term or sell out in the short term, is the type of crucial information that would helpfully inform the negotiating position of the public sector. More widely, a realistic understanding of how the development industry operates is now essential to negotiating developer contributions.

In conclusion, while we may be able to identify and explain how the 'notional property developer' has emerged as a policy construct, we would argue the case for a more thorough understanding of the development industry, and particularly of the cultural differences between different types of developer, as a pre-requisite for more effective policy-making.

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